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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,054	10/28/2003	Allan M. Fredholm	SP02-215	5918
22928	7590	08/01/2008	EXAMINER	
CORNING INCORPORATED			LAZORCIC, JASON L	
SP-TI-3-1			ART UNIT	
CORNING, NY 14831			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/696,054	Applicant(s) FREDHOLM, ALLAN M.
Examiner JASON L. LAZORCIK	Art Unit 1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 2, 6-10 and 12-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Steven P. Griffin/
 Supervisory Patent Examiner, Art Unit 1791

Continuation of 11. does NOT place the application in condition for allowance because:

With respect to the rejection of claims under §103(a), Applicant argues that neither Danner nor Anderson teach or suggest a device "for controlling each of the speed, width and thickness of the treated stream of glass". Applicant further alleges that "it is impossible to act on the stream of glass in a manner that controls the speed width and thickness of the stream of glass.

The Examiner disagrees with Applicants allegations on this matter.

In response, it is the Examiners position that Applicants claims require the use of a device "for" controlling the speed, width, and thickness and that said device broadly "acts" upon the treated stream (1a'). The claim does not require that this device be employed to control the speed, width, and thickness of the glass sheet. In contrast, the claim requires only that the device be capable of controlling said properties and that the device broadly "acts" upon the glass sheet. Further, one of ordinary skill would recognize a pair of driven rollers, as exemplified in the Danner apparatus, would be fully capable of controlling the speed, width, and thickness of a plastically deformable ribbon of glass.

Therefore in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a device that is used to control each of the speed, width and thickness of the treated stream of glass) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

To the extent that Applicant alleges that "it is impossible" to act upon the Danner stream of glass in a manner that controls the speed, width and thickness of said stream, the Examiner notes that Applicant has presented no evidence on the record in support of this position. Since Applicant has provided no conclusive evidence in support of the instant allegations, it follows that said allegations are held to be mere conjecture and attorney argument.

The Official policy regarding Attorney argument is clearly outlined in MPEP §2145 [R-3]:

"Attorney argument is not evidence unless it is an admission, in which case, an examiner may use the admission in making a rejection. See MPEP § 2129 and § 2144.03 for a discussion of admissions as prior art. The arguments of counsel cannot take the place of evidence in the record. In *re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); In *re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997) ("An assertion of what seems to follow from common experience is just attorney argument and not the kind of factual evidence that is required to rebut a prima facie case of obviousness."). See MPEP § 716.01(c) for examples of attorney statements which are not evidence and which must be supported by an appropriate affidavit or declaration.

Further, although Applicant argues that the glazing operation would "increase (the glass) viscosity past the working point, such that the glass could no longer be ... worked on downstream of the impression role", said allegations fail to account for contradictory evidence in the Danner disclosure. Specifically Applicant is directed to Figure 1 of the Danner. This figure clearly illustrates the glass sheet bends when placed in contact with the support table (24). It follows that the glass sheet is still in a malleable state or in the working temperature range even downstream of the rollers (23). Applicants suggestions to the contrary are clearly in error and run counter to the teachings set forth in the Danner disclosure.

Applicant next argues that the cited prior art does not teach delivering a stream of glass having a viscosity in the range of about 10 Pas to about 1000 Pas (100 poises to 10,000 poises) and that the treated stream (1a') has a viscosity in the range of about 103 Pas to about 106 Pas (104 poises to 107 poises).

In response, Applicant is first advised that a skilled practitioner in the art of glass manufacturing would be fully equipped to select the appropriate processing temperature and viscosity ranges for the molten glass through routine course of process optimization and quality control. The Kingery reference was cited by the Examiner as a showing that Applicants claimed viscosity ranges would fall within the ranges deemed normal or typical for glass in the molten state (50 to 500 poises) and in the working range (about 104 to about 108 poises).

Now, it is the Examiners understanding that Applicant admits that the glass presents a viscosity in the working range when in contact with the impression roll (see page 13). It should appear evident that the glass is still in a malleable state or working temperature range when placed in contact with the support table (24) for reasons discussed above (again as per figure 1, the glass sheet bends downstream from the rollers 23 when placed in contact with the table 24). It follows that the treated stream (1a') would reasonably be expected to present a viscosity in the range of about 104 poises to 107 poises at the end of the treatment as required by claim 9. In short, Applicants claimed viscosity range for the glass sheet after treatment appears to be either implicitly encompassed by the Danner disclosure or alternately that such a temperature range would have presented no more than a trivial extension over the Danner.

Now with respect to the viscosity of the stream of glass at the point of delivery to the process, the Examiner acknowledges that Danner is silent regarding the preferred viscosity range as required by Applicants independent claim 1. Here again, it is the Examiners assessment that the claimed viscosity range does not provide a patentable distinction over the Danner and Anderson teachings for one of ordinary skill in the art.

Specifically, Danner teaches an overflow process for delivery of a ribbon of glass to a mold substrate in much the same manner as the ribbon forming technique disclosed in the Danner reference. In the instant case, Anderson is cited merely to show the range of viscosities that would be construed as conventional (e.g. 1000 to 5000 poises) for a molten ribbon of glass which is generated in a similar fashion to that taught by Danner. The viscosities used by Anderson to generate a molten ribbon of glass would provide a reasonable expectation of success if employed in the substantially analogous ribbon forming technique of the Danner technique.

Applicants arguments regarding the now deleted limitation regarding "a substantially smooth surface of a treatment device" have been fully addressed in prior Official Actions (See particularly page 18-19 of the Final Rejection dated January 18, 2007.